



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

November 21, 2006

Ms. Michelle Halley
National Wildlife Federation
213 West Liberty Street, Suite 200
Ann Arbor, Michigan 48104

Dear Ms. Halley:

SUBJECT: Kennecott Eagle Minerals Company

This letter is in response to your July 24, 2006, letter requesting that Kennecott be required to obtain a National Pollutant Discharge Elimination System (NPDES) permit. We have reviewed your letter, and discussed this with both the United States Environmental Protection Agency Region 5 Permits staff and our Attorney General's office.

Subsequent to your letter, we have determined that Kennecott has submitted an administratively complete application for a Groundwater Discharge Permit pursuant to Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1995 PA 451, as amended (Act 451). As such, the preliminary determination made in my September 14, 2005, letter is appropriate pursuant to the Part 22 rules for a Groundwater Discharge Permit, specifically 323.2204(2)(e). This will provide protection for the surface waters if any venting groundwater affected by the Kennecott discharge reaches the surface waters. This is not projected to occur until a number of years after the groundwater discharge occurs.

We agree that if there is a significant nexus between the groundwater discharge and surface water such that the discharge will significantly affect the physical, chemical, or biological quality of the surface water, then an NPDES permit is required. These determinations are made on a case-by-case basis. However, in this instance, such a significant nexus will not exist. This is because the Groundwater Discharge Permit to be issued pursuant to Part 31 of Act 451 will include the protection necessary to prevent significant effects on the physical, chemical, and biological quality of the surface waters. Therefore, we do not intend to require an NPDES permit for the groundwater discharge proposed here.

Please contact me at 517-335-4114 if you wish to discuss this issue further.

Sincerely,

William Creal, Chief
Permits Section
Water Bureau

wc/sea

cc: Mr. Stanley F. Pruss, Deputy Director, DEQ
Mr. James Janiczek, DEQ
Ms. Jeanette Bailey, DEQ